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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,507	07/24/2003	Paul V. Kelley	29953-190101	9006
26694	7590	06/16/2006	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20045-9998			MAI, TRI M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/625,507

Applicant(s)

KELLEY

Examiner

Tri M. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/02/04; 11/24/03</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“wherein said rounded edge of at least one rib is inwardly facing and said rounded edge of at least one rib is outwardly facing” is confusing. It seems that the claim recites that one rib is both facing inward and outward. “at least one rib” is a double inclusion of the same recitation previously recited.

“said plurality of ribs having either an outward or inward facing rounded edge” is confusing. It is unclear whether each of the said plurality of ribs having either an outward or inward facing rounded edge or the plurality of ribs together having either an outward or inward facing rounded edge.

2. Claims 1-4, 9-15, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald et al. (D360582) in view of Ota (5238129). McDonald teaches a container having rectangular side walls as shown fig. 3, and a base wherein the body portion comprises a label mounting area on at least two of the rectangular sidewall, a rectangular vacuum panel, a plurality of horizontal ribs having inwardly facing round edge relative to the space defined by the sidewalls. It would have been obvious to one of ordinary skill in the art to provide to make the container from PET, as taught by Ota to provide the desired material.

3. Claims 1-4, 9-15, 16, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald rejection, as set forth above, in paragraph 2, and further in view of Arvidson et al. To the degree it is argued that McDonald does not teach the round edge. It would

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have been obvious to one of ordinary skill in the art to provide ribs with round edge as taught by Arvidson as shown in Fig. 9 to provide the desired rib for the container.

4. Claims 1-4, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Ota (5238129) or in the alternative, over Ota in view of Collette et al. (4863046). Ota teaches plastic container with having a body portion with rectangular sidewalls and a base wherein the body portion comprises a label mounting area, on at least two of the rectangular sidewall, extending between the upper bumper 200 and a lower bumper 100. The mounting area comprising: a rectangular vacuum panel 13, and a plurality of ribs 9 within each panel the ribs are parallel to each other and the non rounded base and extend from one side of the rectangular panel to the other. Each of the ribs 9 having rounded edge as shown in top down.

In the alternative, it is noted that Collette teaches similar ribs with inwardly facing rounded edge at portion 72 as shown in Fig. 10. It would have been obvious to one of ordinary skill in the art to use the ribs in Ota as taught by Collette.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ota in view of Sugiura et al. (5381910). To the degree it is argued that Ota does not teach the ribs having rounded ribs, Sugiura teaches that it is known in the art to provide ribs 23 facing inward and ribs 21 facing outward as shown in Fig. 6. It would have been obvious to one of ordinary skill in the art to provide the ribs as taught by Sugiura to provide alternative rib structures. It is noted that the ribs in Sugiura would meet the limitations “at least one rib is inwardly facing and the edges of the remaining ribs are outwardly facing”.

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6. Claims 1-11, and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Arvidson et al. (5123554). Arvidson teaches a container having a rectangular vacuum panel, a plurality of ribs as claimed and the ribs are either outward facing or inward facing as claimed.

Regarding claim 2, note there are 29 ribs in each panel.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arvidson in view of Ota. It would have been obvious to one of ordinary skill in the art to make the container from PET to provide the desired material for the bottle.

Applicant's arguments have been fully considered but they are not persuasive. It is noted the new amendment is confusing with respect to the recitation "wherein said rounded edge of at least one rib is inwardly facing and said rounded edge of at least one rib is outwardly facing" is confusing. It seems that the claim recites that one rib is both facing inward and outward. "at least one rib" is a double inclusion of the same recitation previously recited.

"said plurality of ribs having either an outward or inward facing rounded edge" is confusing. It is unclear whether each of the said plurality of ribs having either an outward or inward facing rounded edge or the plurality of ribs together having either an outward or inward facing rounded edge.

With respect to the Ota rejection, as best understood view of the 112 matters above it seems that the claim allow all of the ribs can face inwardly similar to that of Ota. Thus the rejection of Ota is maintained.

With respect to the rejection over Sugiura, it is noted that portion 21 is a rib and portion 23 is another rib. The claim does not specify where a starting point for a rib and the ending point for the rib. In this case, each of the ribs 21 and 23 in Sugiura begins and ends at the midpoint

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between the vertex of portion 21 and 23. It is further noted that this designation is well known in the art as demonstrated by Arvidson et al. (5123554), i.e., Fig. 9 is noted as “ribbed formations 32” in col. 2, ln. 61. Thus each of the vertexes 32 is a rib as claimed.

Furthermore, it is noted that the claim defines the ribs as either “outward” or “inwardly” facing. These are directional terms. The claim does not require the ribs to be projected outward or inwardly from the surface of the panel at all.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai
Primary Examiner
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